

STATE OF CALIFORNIA

The Resources Agency

Department Of Water Resources

GUIDELINES
FOR
STATE REIMBURSEMENT
ON
FLOOD CONTROL PROJECTS

FEBRUARY 1974

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

FLOOD CONTROL SUBVENTIONS PROGRAM

On January 1, 1975, Chapter 1054, Statutes of 1974 (AB 3471) becomes effective. The legislation amends certain sections of the cost-sharing policy enacted by Chapter 893, Statutes of 1973 (SB 399). In order to incorporate these amendments In "Guidelines for State Reimbursement on Flood Control Projects", dated February 1974, the following "pen and ink" changes should be made:

1.Foreward. Second paragraph, last sentence: "When specifically authorized by the Legislature, the State may loan the local share of the rights-of-way and Relocation costs."

2.Table of Contents. Section III.D: "Loan for Rights-of-Way and Relocation Costs".

3.Subsection 111.D "The local agency can receive a credit against Its share of rights-of-way and relocation costs for land required for the project which were acquired not more than five years prior to federal authorization of the project."

4.Paragraph III.C.3. Strike entire paragraph.

5.Subsection III.D: Title. "Loan for Rights-of-Way and Relocation Costs". Text. "The legislation provides that the Department may lend the local agency the funds necessary to pay its share of rights-of-way and relocation costs, less any credit due for preauthorization rights-of-way.

6.Paragraph III.D.3. Fourth sentence. "They will be made piecemeal as local agency claims for rights-of-way and relocations are processed."

7.Paragraph III.D.4. Strike entire paragraph.

FOREWORD

Two major changes in the Flood Control Subventions Program were made by bills passed during the 1973 Session of the Legislature. Assembly Bill No. 641 (Chapter 537, Statutes of 1973) expands the program to provide for state financial participation in the nonfederal capital costs of the recreation and fish and wildlife enhancement features of a project. Senate Bill No. 399 (Chapter 893, Statutes of 1973) establishes a policy of state-local cost sharing for rights-of-way and relocation costs in connection with the flood control features of a project.

The State may pay 50 percent of the nonfederal capital costs of recreation and fish and wildlife enhancement features when specifically authorized by the Legislature to do so. This provision applies to all projects eligible under the program, subject to legislative action. The provision concerning state - local cost sharing applies to projects state authorized after November 10, 1969. When specifically authorized by the Legislature, the State may loan the local share of the rights-of-way costs.

This new edition of "Guidelines..." incorporates these changes in program policy. With the addition of recreation and fish and wildlife enhancement costs and different rates of state participation for rights-of-way and relocation costs, it is extremely important that the local agencies establish and maintain a cost accounting system which separates charges and places them in the proper account.

John R. Teerink, Director
Department of Water Resources
The Resources Agency

TABLE OF CONTENTS

FOREWORD	i
INTRODUCTION	v
SECTION I. PROPOSED PROJECTS	1
A. The Project Area	1
B. Flood Plain Management Regulations	2
C. Cost Allocations for PL 566 Projects, FC Features	2
D. Local Revenue Base	4
SECTION II. RECREATION AND FISH AND WILDLIFE ENHANCEMENT	7
A. State Authorization	7
B. Recreation Facilities	8
C. Recreation and Fish and Wildlife Enhancement Lands	8
D. Recreation and Fish and Wildlife Enhancement	
Relocations	10
E. Associated Recreation and Fish and Wildlife	
Enhancement Costs	11
SECTION III. COST SHARING	13
A. Cost-Sharing Formula	13
B. Benefit Data	14
C. Credit for Pre-authorization Rights-of-Way	15
D. Loan for Rights-of-Way Costs	16
SECTION IV. LAND ACQUISITION	19
A. General Criteria	19
B. Rights-of-Way Maps and Data	20
C. Appraisals	21
D. Settlements	23
E. Associated land Acquisition Costs	25

TABLE OF CONTENTS (CONTINUED)

SECTION V. RELOCATIONS	29
A. General Criteria	29
B. Relocation Standards	29
C. Betterments	30
D. Agreements and Contracts	32
E. Associated Relocation Costs	33
SECTION VI. CLAIMS FOR FINANCIAL ASSISTANCE	35
A. Project Requirements	35
B. Claims for Reimbursement	36
C. Claims for Advances	36
D. State Review	38
APPENDIX A - DEFINITIONS AND CITATIONS	41
APPENDIX B - SAMPLE FORMS	45

INTRODUCTION

The State Legislature has established a policy of financial assistance to local agencies cooperating in the construction of federal flood control projects (Chapters 1 through 4. Part 6. Division 6 of the California Water Code). State assistance is limited to reimbursement of all or a portion of the costs of rights-of-way and relocations which are necessary for construction of the flood control features and of 50 percent of the nonfederal-capital costs of recreation and fish and wildlife enhancement features of a project.

The Department of Water Resources is charged with the responsibility for administering state flood control funds for all state authorized projects except major Corps of Engineers' projects in the Central Valley. The Reclamation Board directly acquires rights-of-way and makes relocations for these major Corps projects. In order to uniformly administer its program, the Department has established the guidelines presented in this publication.

The legislative policy that this is an assistance program is emphasized throughout this guide. The cooperating local agency enters into an agreement with the federal agency constructing the project. The local agency is responsible to the federal agency for acquiring rights-of-way and making relocations. If the local agency complies with these guidelines, it can expect reimbursement of the state share of its costs. Any costs incurred contrary to the guidelines must be borne by the local agency.

SECTION I. PROPOSED PROJECTS

Local agency responsibilities under the state financial assistance Program begin at the time the federal agency completes its preliminary report on a proposed project. The federal report is the first step in obtaining project construction and it provides a considerable amount of information which will affect rights-of-way and relocation costs.

A. The Project Area

The federal report presents plans, profiles, and typical cross sections of the proposed project. Using this information, the local agency can define the area which will be required for a project to a reasonably accurate degree. The Department expects the local agency to do everything within its power to prevent the construction or installation of public or private works which will require relocation at the time of project construction. The local agency is expected to contact those responsible for the issuance of building permits, the approval of subdivision maps, and any other agency exercising control of land use and to advise them of the potential rights-of-way requirements of the project. The local agency should document its efforts in this area. If, in the opinion of the Department, the local agency has not exercised due diligence in the prevention of encroachments in the project area, the cost of relocating the encroaching works will not be eligible for reimbursement by the State.

B. Flood Plain Management Regulations

The Cobey-Alquist Flood Plain Management Act places additional requirements for eligibility for state funds on the local agency. This Act requires that the local agency establish flood plain management regulations for the project area. These regulations must be established within one year following notification by the Department. If the local agency fails to establish the necessary flood plain management regulations, the project will not be eligible for state financial assistance.

The requirements of the Cobey-Alquist Act are outlined in the Department publication entitled "Information and Regulations for the Administration of the Cobey-Alquist Flood Plain Management Act", dated May 1967. Copies of this publication are available from the Department's district offices. The requirements of the Cobey-Alquist Act are in addition to the requirements outlined in Subsection A above.

C. Cost Allocations for PL 566 Projects - Flood Control Features

The Water Code permits reimbursement of the costs of rights-of-way required for floodwater retarding structures which are part of Watershed Protection-and Flood Prevention (PL 566) Projects. U. S. Department of Agriculture Soil Conservation Service policy encourages the inclusion of water conservation and recreation as project purposes in watershed protection projects.

Since the legislation authorizing state financial assistance limits such assistance to the flood control purpose only, it is necessary that the costs of a project reservoir which includes water conservation or recreation as a project purpose be allocated to the various purposes which the reservoir serves.

The Department, as well as most other agencies in the water resources development field, uses the Separable Cost Remaining Benefit (SCRB) method of cost allocation for reservoir projects. This method is widely accepted as an equitable method of allocating costs to the purposes of a reservoir and will be used in the State's financial assistance program.

The SCRB allocation will be made prior to the time the Department disburses state funds. The SCRB allocation will be used to determine the maximum amount of state flood control funds which may be reimbursed to the local agency. Since the Soil Conservation Service may pay a portion of the joint use rights-of-way and relocation costs when recreation is a project purpose, the amount of federal contributions to items eligible for state assistance will be considered in determining the amount of state financial assistance. The local agency will not be allowed to receive more than 100 percent of the cost of rights-of-way and relocations from various assistance programs.

Rights-of-way and relocations eligible for assistance in connection with the flood control features of PL 566 reservoirs will be limited to joint use lands and facilities. Joint use lands

will be determined by the Department. They will be estimated from takelines based on the estimated high water surface line of the reservoir (design flood discharge elevation), plus freeboard not to exceed five feet vertically. Special situations will be considered on their merits.

The determination of the percent of state financial assistance will be considered final and will be used throughout the life of the project unless significant modifications are made to the project plan or the local agency requests that the reservoir portion of the watershed protection project be considered for a grant under the Administration of State Financial Assistance for Local Projects (Davis-Grunsky) Program. In the former case, a new cost allocation, based on the revised project plan and current cost and benefit estimates, will be made and previous reimbursements will be adjusted. In the latter case, the cost allocation used to determine the Davis-Grunsky grant will control and an adjustment of previous reimbursements to the local agency will be made if necessary.

Additional state financial assistance in connection with the recreation and fish and wildlife enhancement features of a floodwater retarding structure is described in Paragraph II.C.4.

D. Local Revenue Base

The local agency is responsible to the Federal Government for complying with the local cooperation requirements of federal flood control projects. This includes both financing and acquisition of

rights-of-way and making relocations. The legislative intent of the state financial assistance program is to reimburse the local agency for the state share of project costs. In order to carry out project construction in an orderly manner, the local agency must have adequate funds to acquire rights-of-way and make relocations and pay the cost of this work pending state reimbursement. Therefore, the Department expects the local agency to establish a revenue base for the project.

It is suggested that a revolving fund of at least one-third of the nonfederal project cost should be established for this purpose. In the case of a project which will continue over several years, funds sufficient to carry the local program for at least six months should be available.

While the Department will do everything reasonably possible to see that local agency costs are reimbursed at an early date, it must be remembered at all times that the responsibility for incurring and paying the costs rests with the local agency. It has been the Department's experience in administering this program that a local agency without an adequate revenue base encounters problems which invariably delay project construction.

Blank Page

SECTION II. RECREATION AND FISH AND WILDLIFE ENHANCEMENT

Chapter 3.5, Part 6. Division 6 of the Water Code, commencing with Section 12840, establishes a state policy of paying 50 percent of the nonfederal capital costs of recreation and fish and wildlife features in connection with federal flood control projects which require local cooperation. Where such features are to be included, the local agency should contact the State Departments of Water Resources, Parks and Recreation, and Fish and Game during the investigation. The purpose of this contact is to obtain the views of these agencies on the nature and scope of the features to be recommended for inclusion in the project report submitted for authorization.

The legislation also provides that the state may cooperate directly with the Federal Government when a project is subject to the provisions of Public Law 89-72. If an authorized state agency desires to so cooperate, it will contact the local agency and the Department to arrange for a coordinated plan of action.

A. State Authorization

The legislation requires that state payment of 50 percent of the nonfederal capital costs of the recreation and fish and wildlife features of a given project be specifically authorized by the Legislature. The local agency is responsible for obtaining the required authorization. For projects not yet state-authorized, the Department will consider the plans for recreation and fish and wildlife enhancement contained in the project report to be the

basis for state participation. For projects already state-authorized, the local agency shall prepare a report which shows the plans it and the federal agency have agreed to implement. This report should be coordinated with the appropriate state agencies prior to finalization. It should be presented to the Legislature at the time state authorization is sought. When state authorization is obtained, the report will become the basis for state participation.

B. Recreation Facilities

Facilities to serve recreational activities normally and usually associated with the out-of-doors and which make project land and water areas available for use by the general public are eligible for state financial assistance. The facilities and resultant activities must be consistent with the operation of the project for other purposes. Facilities must be required by the federal agency and the federal agency must participate in their cost. Plans for specific facilities must be submitted for the Department's review and approval prior to the award of the construction contract.

C. Recreation and Fish and Wildlife Enhancement Lands

Lands required for the recreation and fish and wildlife enhancement features of a project are eligible for state financial assistance.

1. Lands for these purposes must be certified as necessary for the project by the federal agency. The Department reserves the

right to review and approve the lands to be acquired for these purposes.

2. Unless the federal agency specifically designates them on the rights-of-way requirements maps, it will be assumed that lands required exclusively for recreation and fish and wildlife enhancement purposes lie landward of the lands required for flood control purposes. The local agency's parcel maps will be subdivided to reflect this separation. For unique situations where recreation and fish and wildlife enhancement lands are actually within the lands required for flood control, the Department, in consultation with the local agency and the federal agency, will define the lands required for a theoretical single-purpose flood control project. The lands required for this theoretical project will be eligible for state financial assistance as flood control lands. The remainder of the lands out to the actual rights-of-way line will be for recreation and fish and wildlife enhancement. This determination must be made prior to acquisition.

3. Lands for recreation and fish and wildlife enhancement purposes shall be acquired at the same time and in the same manner as lands for other project purposes. The procedures presented in Section IV, "Land Acquisition", of this guide will apply. Where a parcel of land is taken for both flood control purposes and recreation and fish and wildlife enhancement purposes, the appraisal for the parcel must show a cost breakdown for the separate pieces taken for each purpose.

4. For floodwater retarding structures in PL 566 projects, the lands outside the joint use lands defined in Subsection I.C. will

be considered for assistance under the recreation and fish and wildlife enhancement lands category.

The portion of the costs of joint use lands allocated to the recreation purpose will also come under this category. Federal payments will first be considered. The local agency will not be allowed to receive more than its actual costs from the various assistance programs.

D. Recreation and Fish and Wildlife Enhancement Relocations

Relocations made necessary by the recreation and fish and wildlife enhancement features of a project are eligible for state payment of 50 percent of the nonfederal capital cost.

1. Relocations for these purposes must be determined necessary for the construction of the project by the federal agency.

2. When relocations are made necessary by both the recreation and fish and wildlife enhancement features and the flood control features, the costs of the relocations must be divided between the two features. Where relocations are linear in nature, the same dividing line as used in separating land (Paragraph II.C.2.) will be used to determine the percent of cost attributable to each feature. Where such relocations are areal in nature, a percentage division based on the area of the facility being relocated will be made by the Department.

3. Relocations for recreation and fish and wildlife enhancement purposes will be made at the same time as relocations for other project purposes. The procedures presented in Section V. "Relocations", of this guide will apply.

4. Cost apportionment's for relocations in connection with PL 566 project floodwater retarding structures will be made in the same manner as for land costs (Paragraph II.C.4.).

E. Associated Recreation and Fish and Wildlife Enhancement Costs

In addition to receiving state financial assistance for the actual costs of lands and relocations required for the recreation and fish and wildlife enhancement features of a project, the local agency may receive assistance for associated costs. These costs are described in Subsections IV.E. and V.E. The local agency may not be reimbursed for its own administrative overhead (Paragraph IV.E.2.).

Blank Page

SECTION III. COST SHARING

Amendments to Chapters 1 and 4, Part 6, Division 6 of the Water Code, commencing at Sections 12570 and 12850, respectively, establish a policy of state-local cost sharing for rights-of-way and relocation costs in connection with the flood control features of a project. The policy applies to projects which received state authorization after November 10, 1969.

A. Cost-Sharing Formula

The legislation establishes the following general formula for cost sharing:

State Share =

$$0.75 \left(\frac{\text{Flood Damage Reduction Benefits}}{\text{Total Benefits}} \right) (\text{Rights-of-Way Costs})$$

$$+0.90 \left(\frac{\text{Flood Damage Reduction Benefits}}{\text{Total Benefits}} \right) (\text{Relocation Costs})$$

Local Share =

$$0.25 \left(\frac{\text{Flood Damage Reduction Benefits}}{\text{Total Benefits}} \right) (\text{Rights-of-Way Costs})$$

$$+0.10 \left(\frac{\text{Flood Damage Reduction Benefits}}{\text{Total Benefits}} \right) (\text{Relocation Costs})$$

$$+1.00 \left(\frac{\text{Land Enhancement Benefits}}{\text{Total Benefits}} \right) (\text{Rights-of-Way} + \text{Relocation Costs})$$

For purposes of administering this formula, total benefits are defined as the sum of flood damage reduction benefits and land enhancement benefits. Other benefits associated with a project will not be used in computing the state and local shares of the

rights-of-way and relocations necessary for the flood control features. The percentage determined by the first two factors in each element of the formula will be applied to actual costs to compute the amount of state financial assistance.

B. Benefit Data

The legislation provides that the Department will determine the state share at or prior to the time the project report is submitted to the Congress (for small flood control projects it will be determined when the report is submitted to the Chief of Engineers). For projects already having federal authorization, the determination will be made when state authorization is sought by the local agency.

1. The benefit data in the project report will be the starting point for determining the state share for projects without federal authorization. For projects with federal authorization, the data in the design memorandum will be used if available. If the design memorandum is not available, the project report will be used. In either case the Department will review the benefits claimed. If the Department is in general agreement, the benefits presented in the report will be used in the formula to compute the state share percentage. If the Department is not in general agreement with the benefits presented, it will meet with the federal agency and attempt to develop mutually acceptable estimates of benefits. Failing this, the Department will make its own estimates of benefits and use them to compute the state share. The local agency will be notified if the Department decides to use benefits other than those presented in the federal report.

2. The percentage of state assistance will not be changed unless there are major changes in the plan of improvement. If this occurs, the Department will compute a new percentage. The data used in the justification of the major change will be the starting point of the Department's review. The local agency will be notified of any change in the percentage.

3. If a project not subject to cost sharing is so changed that it becomes subject to the provisions of Water Code Section 12639 or 12873, any portion of the modified project which the Department determines to be beyond the scope of the original project will be subject to cost sharing. The state share of the rights-of-way and relocation costs for the portion subject to cost sharing will be determined as described above.

C. Credit for Pre-authorization Rights-of-Way

The local agency can receive a credit against its share of rights-of-way costs for lands required for the project which were acquired not more than five years prior to federal authorization of the project.

1. The amount of the credit will be determined by the Department by applying the percentage for the state share of rights-of-way costs to the value of the land required for the project.

2. The value of the land required for the project will be the actual costs to the local agency for lands acquired by purchase or condemnation or the fair market value at the time title is transferred for lands acquired free of charge. The local

agency must document these values. Only values documented and audited will be allowed.

3. The credit determined in Paragraph III.C.1. can only be applied to the local agency's share of rights-of-way costs. None of the credit can be applied to the local agency's share of relocation costs.

D. Loan for Rights-of-Way Costs

The legislation provides that the Department may lend the local agency the funds necessary to pay its share of rightsof-way costs, less any credit due for pre-authorization rights-of-way.

1. Such a loan must be specifically authorized by the Legislature. The local agency is responsible for obtaining the required authorization.

2. The loan may not exceed a period of ten years. The rate of interest on the loan will be the rate for the State's Pooled Money Investment Account at the time the loan agreement is executed. The loan must be repaid in annual installments beginning one year after the loan is made. The annual loan payment will be deducted from the State's annual tax subvention to the local agency, if any. Otherwise, the local agency must make its payment directly to the State.

3. When a local agency has obtained authorization to receive a loan, the Department will prepare a loan agreement. This agreement will fix the terms of the loan and describe the method of Disbursement. Loans will not be made on a lump-sum basis. They will be made piecemeal as local agency claims for rights-of-way costs are processed. At the time a claim is ready for payment, the local share of the claim will be determined. Credits for

pre-authorization rights-of-way will be allowed first. If a local share of costs is still due after application of the credit, the Department will reimburse it to the local agency and debit its loan account.

4. There is no provision for a loan for the local agency's share of relocation costs.

Blank Page

SECTION IV. LAND ACQUISITION

State financial assistance for rights-of-way costs is limited to lands determined necessary for recreation and fish and wildlife enhancement features and flood control features of the project by the federal agency. The following subsections describe requirements with which local agencies must comply to receive reimbursement of the state share of rights-of-way costs. They apply to both features of the project. Since state financial assistance for the two features is computed at different rates, the local agency must separate its costs and assign them to the appropriate feature.

A. General Criteria

1. The Department will reallocate funds to the local agency only for rights-of-way costs which have been determined to be necessary for the recreation and fish and wildlife enhancement features and the flood control features of the project by the responsible federal agency and which have been reviewed for reasonableness by the Department. Any lands acquired which are in excess of the federal requirements must be paid for by the local agency.

2. When lands are required during the construction period, but are located outside of the permanent project boundaries, only a temporary interest should be acquired whenever possible.

3. When lands required for the project were acquired after federal project authorization by public entities under the same

governing board as the local agency, and when these lands are not donated for the project, the Department will reimburse no more than the original purchase price of the lands paid by those entities.

4. If, after project installation, it is determined that rights-of-way acquired for the project are no longer needed for operation and maintenance of the project, the local agency will be expected to dispose of such lands at fair market value and reimburse the State for the state share of the net amount received. The same principles apply to flowage easements and open channel easements which are subsequently replaced by the construction of protective facilities or improvements such as covered channels. In this case, the local agency should determine the value of the easement for the period used and reimburse the State the state share of the difference between the value of the easement for the period used and the amount paid at the time of project acquisition. Before any modification of the project rights-of-way is undertaken, the local agency must obtain the approval of the Department and the federal agency involved in the construction of the project.

B. Rights-of-Way Maps and Data

Before eligibility of costs for reimbursement can be determined by the Department, the local agency must provide detailed information regarding proposed land acquisitions. The Department will prepare reports identifying lands and interests in lands required for the total project or for identifiable portions

of the project. These reports will serve as the basis for reimbursing the local agency. The information listed below must be submitted prior to acquisition by the local agency.

1. A set of maps depicting the lands required by the federal agency for the project or for an identifiable portion of the project.

2. A set of parcel maps prepared by the local agency showing parcels to be acquired.

3. The parcel numbers used on the parcel maps shall be used in appraisals, acquisition documents, and the claims filed by the local agency. If parcel numbers are changed, the Department must be informed.

C. Appraisals

All properties for which the local agency plans to request state reimbursement must be appraised by competent appraisers. The following paragraphs outline the Department's requirements for appraisals.

1. When property with an estimated value of \$2,000 or more is to be acquired, the local agency must acquire adequate appraisals from two competent appraisers, Unless otherwise authorized by the Department. One of the appraisals must be made by an appraiser not on the staff of the local agency. The appraisers shall not Negotiate for acquisition of lands required for the project. For property estimated and found to have a value of less than \$2,000, one appraisal is sufficient.

2. Property shall not be reappraise nor appraisals adjusted without the prior approval of the Department. Reimbursement by the Department will be based upon appraisals secured prior to negotiation unless a reappraisal is approved. Where property has been acquired by condemnation proceeding and a trial date has not been set within one year, the local agency may have one appraisal updated for purposes of going to court. When this is done, the local agency should document in its records that the delay past one year was not caused by the landowner or lack of local agency diligence.

3. The qualifications of outside appraisers must be submitted for the Department's review and approval prior to their Engagement.

4. The contract for hiring an outside appraiser must be approved by the Department prior to its execution. A sample form of contract for the hiring of real estate appraisers is included as Sample No. 6 in Appendix B. Specific items which should be covered in appraisal reports are noted at the end of the form. The Department expects appraisal reports to cover these points.

5. When it is necessary to acquire strips of properties along channel reaches, the local agency should engage appraisers on a total job basis rather than an individual parcel basis. Statewide program experience has demonstrated that appreciable savings result from use of this method.

6. If the local agency should desire to acquire an entire parcel and retain the excess portion, rather than only the portion necessary for the project, separate deeds should be obtained at

the time of purchase. The local agency must submit details of the transaction, including appraisals of the entire parcel and the basis for dividing the cost, at the time it submits its claim for reimbursement.

D. Settlements

Three types of rights-of-way settlements are possible. These are the negotiated settlement, the stipulated judgment, and the court judgment based on a trial. The following paragraphs outline the Department's requirements for eligibility of settlements and discuss special problems in connection with severance damage and construction in lieu of monetary payment as a consideration for obtaining rights-of-way.

1. Negotiated settlements and stipulated judgments may not exceed the local agency's high appraised value unless the advance approval of the Department has been obtained. Requests for approval to settle over high appraisal must be accompanied by adequate justification. Settling over high appraisal in order to avoid going to trial will not generally be accepted as justification.

2. When a court judgment for a parcel which the local agency appraises at \$2,000 or more is in excess of 125 percent of the local agency's high appraisal, the Department must be notified within five working days following the date of judgment. When a court judgment for a parcel appraised at less than \$2,000 is in excess of \$2,500 the Department must also be notified. The notification should include a brief analysis of the trial and a

recommendation as to the appropriateness of an appeal. The Department may direct the local agency to appeal a judgment.

3. Settlements may include severance damage. The local agency should, however, determine if it is more economical to acquire an entire parcel containing excess lands. If acquiring the entire parcel is more economical, the local agency should do so. The local agency's claim for reimbursement should set forth the actual or appraised salvage value of the excess lands and the estimated salvage value of improvements. The state share of the salvage value of excess lands and improvements will be deducted pending final sale.

4. The Department can not participate in any construction which reduces the amount of rights-of-way required or which changes the type of estate taken. Construction of this nature is defined as construction in lieu of rights-of-way. The Attorney General's office has ruled that construction in lieu of rights-of-way is not eligible for state financial assistance. Costs of construction to mitigate severance damage, when this does not change the area or the estate taken, may be reimbursed. The Department's advance approval shall be obtained when construction to mitigate severance damage is anticipated.

5. Where possession of property has been obtained by court order in eminent domain proceedings, and either a negotiated settlement or a stipulated judgment has been obtained, interest may be considered eligible for reimbursement if it is considered and agreed to in reaching the settlement. The payment of interest

under these circumstances is considered an associated land acquisition cost (See Subsection E below).

6. When the owner of lands required for the project requests that, in lieu of monetary payment for use or acquisition of his land, certain construction be undertaken, the local agency may do so if the cost of the construction is less than the appraised value of the interest in the land actually acquired. Any construction costs which would normally be paid by the federal agency will not be eligible for reimbursement by the Department. The Department's advance approval shall be obtained when construction in lieu of monetary payment is anticipated.

7. The Department expects the local agency to exercise diligence in obtaining rights-of-way settlements. Particular attention should be given to setting early trial dates when negotiated settlements cannot be secured. Adjustments of appraisals or reappraisals must have the Department's advance approval, except as provided in Paragraph IV.C.2. If the Department determines that the local agency has failed to exercise diligence, increased costs resulting from the lack of diligence will not be eligible for reimbursement.

8. The local agency shall secure and keep on file satisfactory evidence of titles to lands or interests in lands for which reimbursement is requested from the State.

E. Associated Land Acquisition Costs

In addition to the state share of the direct costs of lands and improvements acquired for the project, a local agency may be

reimbursed for certain associated land acquisition costs. The same percentage factor as used for direct costs will be used for associated costs.

1. Associated land acquisition costs may include, but are not limited to, salaries of employees, costs incurred in securing appraisals, survey costs, legally required relocation assistance payment⁶, title reports, title insurance, preparation of deeds and agreements, cost of printing summons and complaint, filing fees, reporter's fees, witness fees, jury fees, recording fees, and similar expenses directly attributable to the acquisition of rights-of-way.

2. The local agency may not be reimbursed for its own administrative overhead. The Department defines administrative overhead to include the salaries and fringe benefits of the executive officer in charge of the local agency, his deputy, and their immediate stenographic support. It also includes pro rata rent charge for the use of office furniture and equipment owned by the local agency. If the local agency obtains services from some other separate department of county government, overhead charges of the department supplying the services are considered eligible for reimbursement.

3. The local agency may obtain reimbursement of the state share of any net costs incurred in disposing of excess lands if it exercises diligence. If the net amount received by the local agency is less than the amount deducted from the claim, the Department will reimburse the difference to the local agency. If the net amount received is in excess of the amount deducted, the

local agency shall include the difference as a credit to the State in its first subsequent claim.

4. If the cost of removing buildings or other improvements is estimated to be in excess of the salvage value therefrom, the local agency should contact the federal agency constructing the project to arrange for disposal at federal expense. When there are net proceeds from the salvage of buildings or other improvements, they shall be shared in the same ratio as the costs of acquiring the land and improvements were shared.

5. When a project includes land acquisition for both flood control features and recreation and fish and wildlife enhancement features, associated land acquisition costs which cannot be assigned to one feature or the other will be prorated on the basis of the right-of-way area acquired for each feature.

Blank Page

SECTION V. RELOCATIONS

The Water Code provides that a local agency may be reimbursed for the state share of the cost of relocations necessary in connection with the recreation and fish and wildlife enhancement features and the flood control features of a federal project. The following subsections describe the Department's criteria for reimbursement.

A. General Criteria

1. Relocations are eligible for state financial assistance only if the owner has a legal right to be compensated and only to the extent that they provide facilities of equivalent usefulness.

2. Only relocations certified as necessary for the construction of the project by the federal agency will be eligible for state financial assistance. The local agency should document all requests of the federal agency for relocations.

3. The Department will determine the extent of eligibility for state financial assistance of any given relocation. Any cost in excess of this determination will be considered "betterment", and will be the responsibility of the local agency (See Subsection C below)

B. Relocation Standards

1. For the construction of public bridges the Department has adopted a standard roadway width of 28 feet plus safety curbs and railings for the relocation of two-lane public bridges or streets, unless the crossing being relocated, or the existing paved roadway at the bridge being replaced, is greater than 28 feet in width. The cost of sidewalks will be considered eligible only to the

extent that they were part of the crossing being replaced. Eligible replacement width for private bridges will be limited to a roadway width of 10 feet or existing width, whichever is greater. Any construction in excess of that outlined above will be considered betterment and nonreimbursable.

2. The Department has adopted a standard width for public roads of an equivalent number of 12 foot lanes or existing pavement width, whichever is greater. State assistance will be limited to the cost of replacing existing shoulders or 2-foot shoulders, whichever is greater. Private roads will be eligible to the extent of providing an equivalent number of 10-foot lanes or existing width, whichever is greater.

3. The Department's standard for relocating pipelines, sewers, or other related facilities is replacement facilities of equivalent capacity.

4. The Department reimburses only the cost of relocating existing rights-of-way fencing. Channel fencing is not considered an obligation of the State.

5. During the construction of a flood control project, various other types of relocations may be necessary. In all cases, only the cost of facilities which provide equivalent usefulness will be considered eligible for reimbursement.

C. Betterments

Whenever relocations are in excess of the standards outlined above, the additional work will be considered to be betterments and the cost thereof will not be borne by the State.

The local agency shall submit to the Department information, data, and preliminary plans regarding relocations where betterments may be involved. The Department will review this information and notify the local agency of the extent to which the State will participate in the works involved. The following paragraphs outline the methods the Department will use to determine betterment in common cases.

1. The cost of chargeable betterment in relation to the total cost of bridges will be computed by using a percentage relationship. This relationship will be based on the ratio of the width of the structure which exceeds that necessary to provide equivalent usefulness to the total width of the proposed bridge. Determination of this ratio factor will be made as soon as practical after preliminary plans are available. The factor will not be adjusted unless radical changes are made during construction. There may be some cases where the replacement bridge actually constructed is so changed from the replacement bridge without betterments that the width-to-width ratio would not be equitable. For such cases, an alternative method will be devised. Unless the local agency provides detailed quantity estimates for the Department's review, the width-to-width ratio will be applied to box culverts.

2. The eligibility of roads with betterments will be based on a width-to-width ratio; i.e., the width of the eligible road without betterments to the width of the road actually constructed.

3. For other types of relocations with betterments, a proportional relationship will be established for cost sharing.

This relationship will be based on the cost of equivalent facilities without betterment to the total cost of the replacement facility.

D. Agreements and Contracts

All relocations should be performed in accordance with agreements between the local agency and the owner agency. Such agreements should clearly spell out the work to be performed and the financial obligations of each agency. Agreements should, generally, be submitted to the Department for review prior to their execution. They shall be submitted to the Department if betterments are involved. Agreements should provide that the cost to the local agency shall be the actual cost of construction reduced by the net value, if any, of salvage realized and the value of accrued depreciation, if any.

Construction contracts for performing relocations must conform to the provisions of the Government Code and shall include provisions for liquidated damages. Construction overhead and inspection costs are directly proportional to the length of time spent in performing the contract. Continuation of the contract past its scheduled completion date increases these costs and thus damages the local agency. Since the Department reimburses the local agency for the cost of construction overhead and inspection, it is similarly damaged when a contract runs over its scheduled completion date. The local agency shall collect liquidated damages and credit them to the Department in proportion to its share of

the contract. The daily rate for liquidated damages shall reflect the fixed cost of administering the contract. This provision does not preclude granting the contractor change orders which allow additional time for contract completion. Any change orders affecting the time or the cost of the contract must be approved by the Department.

E. Associated Relocation Costs

Costs incurred by the local agency in meeting relocation requirements of the project are eligible for reimbursement to the extent of the state share of the relocation. These costs may include engineering and surveying and contract administration and inspection. It may also include all other reasonable costs in connection with the relocation. The local agency may not be reimbursed for its own administrative overhead (See Paragraph IV.E.2). When a relocation is necessary to serve both the flood control features and the recreation and fish and wildlife enhancement features, the associated relocation costs will be prorated on the basis of the costs of relocation assigned to each feature.

If it is necessary to acquire additional land solely for the purpose of making a relocation, the Department will apply the state share relocation percentage to these lands and the associated costs. The lands must be acquired in accordance with the provisions of Section IV.

Blank Page

SECTION VI. CLAIMS FOR FINANCIAL ASSISTANCE

All local agency requests for state financial assistance in connection with federal flood control projects must be made in a properly filed claim. With the establishment of a cost-sharing policy and the expansion of the program to include state assistance for recreation and fish and wildlife enhancement features, particular attention must be given to cost accounting systems. A project could have as many as three different rates of state assistance. All three categories may be included in the same claim, but they must be clearly separated within the claim. The following subsections outline the requirements for claims filed with the Department and present several requirements that apply to entire projects.

A. Project Requirements

Prior to filing claims for state financial assistance with the Department, the local agency shall meet the following requirements.

1. The local agency shall submit two certified copies of all resolutions giving assurances of local cooperation to the federal agency constructing the project.

2. The local agency shall submit resolutions giving assurance that it will hold and save the State of California free from damages due to the construction and operation of the project and guaranteeing public access to project land and water areas when the State participates in the costs of recreation and fish

and wildlife enhancement features (Sample Form No. 4 in Appendix B).

3. The local agency shall submit resolutions designating the local, agency's representative authorized to file claims for state assistance (Sample Form No. 5 in Appendix B).

4. The local agency shall submit copies of' all requests from, the federal agency regarding local cooperation on project requirements.

B. Claims for Reimbursement

Since this is a reimbursement program, it is expected that the majority of the local agency's claims will be for reimbursement of costs already incurred. Claims for reimbursement shall contain the information presented in the following paragraphs. The local agency shall submit five copies of each claim.

1. The claim must include an affidavit, signed under penalty of perjury by the person authorized to file claims for state financial assistance. The affidavit must contain the information shown in Sample Form No. 1. in Appendix B.

2. The claim must contain a tabulation showing detailed information regarding separate items of the claim and a certificate of payment for the items covered in the claim. The certificate of payment must be signed, under penalty of perjury, by the person responsible for settlement of accounts (See Sample Form Nos. 2 and 3 in Appendix B).

C. Claims for Advances

Subsection I.C. of this guide outlined requirements that the local agency establish a revenue base for carrying out the requirements of local cooperation. If the local agency has exhausted its revenue base, or if unexpected expenses occur due to the acceleration of the construction schedule, the Department, at its discretion³ may advance funds to the local agency. Three types of advances are possible under the program. These are advances into court for the deposit required for an order of immediate possession, advances into escrow to complete property transactions based on negotiated settlements, and advances for construction deposits required by the federal agency or an owner agency for the relocation of works which will be eligible for state financial assistance. These advances are discussed in the following paragraphs.

1. Claims for advances into court for the state share of the deposit required for an order of immediate possession should be prepared in the same manner as claims for reimbursement. In addition, the claim must be accompanied by two copies of a certified copy of the court order requiring such deposit and the complaint. The court order shall include a list of parcels in the condemnation action and the amounts to be deposited for each parcel. The order shall also provide for the deposit of the funds advanced by the State into the Condemnation Deposits Fund of the State Treasury. The amount of the advance may not exceed the state share of the appraised value of the lands less the state share of

any estimated salvage value. At the time the Department transmits the advance to the local agency, it will also transmit an "Assignment of Interest" form which the local agency must execute and return to the Department. The assignment of interest form provides that interest earned on state funds deposited by the local agency will be credited to the State by the State Controller's Office. On completion of the actions covered by the advance, the local agency shall file a certified copy of the judgments in a final claim which covers the parcels involved.

2. Claims for advances into escrow will also be in the same format as claims for reimbursement. The claim shall include the name of the title company handling the escrow and the escrow number. The Department will advance money for the state share to the title company in the name of the local agency.

3. Claims for advances of the state share for construction deposits required by the federal agency or the owner agency shall include the billing of the local agency. These claims must be in accord with the agreement between the local agency and the federal agency or the owner agency. These agreements must be approved in advance by the Department.

D. State Review

Prior to any payment to a local agency by the State, an engineering review will be performed by the Department. Claims for reimbursement will be audited by the State Controllers Office. The local agency must keep and maintain a complete, accurate, and itemized record of any cost for which state reimbursement is

requested. It must permit any authorized officer or employee of the State of California to examine such records, and to interview in connection with such records, the officers, agents, or employees of the local agency. In making its engineering review, the Department will deduct "without prejudice" any item which cannot be verified. The local agency will have 90 days from the date of notification of the deductions to submit additional supporting information. If such information is not received within 90 days, the Department will presume that the local agency accepted the deduction. If the local agency can support its request for reimbursement, a supplemental payment will be made.

Claims for advances will not be audited by the State Controller prior to payment. They will be audited as soon as possible after the completion of the action involved; In addition, the Department will process claims for reimbursement of progress payments made in connection with relocation contracts without audit by the State Controller. These claims will be audited after completion of the construction contract.

A final audit will be made upon completion of a project or a separable reach of a project. Until such time as the final audit is made, the local agency must maintain its record of project expenditures, If the final review of project costs indicates that previous payments require adjustment, the local agency will be expected to reimburse the State for overpayments. Underpayments will be reimbursed to the local agency by the Department.

Page left blank intentionally.

APPENDIX A DEFINITIONS AND CITATIONS

The following definitions are used in the administration of the program.

- A. Department: The Department of Water Resources of the State of California.
- B. Flood Control Project: Any project, in whole or in part, for the control of floods within the State (1) which has been authorized and approved for construction by the United States, (2) which has been authorized for financial assistance by the State pursuant to Chapters I through 4, Part 6, Division 6 of the Water Code, (3) for which financial assistance is required of local agencies by federal law, and (4) for which funds have been appropriated to the Department by the Legislature.
- C. Local Agency: Any county, city, city and county, district, state agency, or other public agency organized under the laws of this State, which is required by law to give and which has given, to the Federal Government assurances that local, cooperation will be furnished in connection with a flood control project.
- D. Owner Agency: Any county, city, city and county, district, or other public or private agency or individual that is the owner, operator or in control of affected works.
- E. Federal Agency: Any administrative agency of the Federal Government which is responsible under federal law for construction of a flood control project.

F. Affected Works: Any existing improvements, structures or utilities, the relocation, reconstruction, replacement or modification of which is rendered necessary by the construction of a flood control project and for which the owner agency has a legal right to be compensated. When the relocation, reconstruction, or replacement is solely the responsibility of the Federal Government or required of the owner agency by law, franchise, or agreement, the Department will not participate in the costs.

G. Lands, Easements, and Rights-of-Way: Lands, easements, and rights-of-way as defined in Section 12573 of the Water Code apply to projects authorized for financial assistance for flood control features by the State under the State Water Resources Law of 1945.

"12573. 'lands, easements and rights of way' includes lands and rights or interests in lands whereon channel improvements and channel rectifications are located; lands, rights, or interests in lands necessary An connection with the construction, operation, or maintenance of such channel improvements and rectifications, including those necessary for flowage purposes, spoil areas, borrow pits, or for access roads; and including the cost of the relocation, reconstruction, or replacement of' existing improvements, structures, or utilities rendered necessary by such channel improvements and rectifications."

Lands, easements, and rights-of-way as defined in Section 12853 of the Water Code apply to projects authorized for financial assistance for flood control features under the California Watershed Protection and Flood Prevention Law, which include Department of Agriculture (Soil Conservation Service) projects under Public law 566, and certain pilot projects of the Department of Agriculture.

"12853. 'Lands, easements and rights of way' includes lands and rights or interests in lands whereon channel improvements and channel rectifications, debris dams and water retarding structures are located; lands, rights, or interests in lands necessary in connection with the construction, operation, or maintenance of such channel improvements and rectifications, debris dams and water retarding structures, including those necessary for flooding and flowage purposes, debris basins, spoil areas, borrow pits, or for access roads; and including the cost of the re3ocation, reconstruction, or replacement of existing improvements, structures, or utilities rendered necessary by such channel improvements and rectifications, debris dams and water retarding structures."

The following are citations of various statutes referred to in this guide:

- State Water Resources law of 1945 (Water Code Sections 12570-J2751).
- The Flood Control- law of, 1946 (Water Code Sections 12800-12830).
- California Watershed Protection and Flood Prevention Law (Water Code Sections 12850-12875).
- Davis-Grunsky Act (Water Code Sections 12880-12893).
- Cobey-Alquist Floodplain Management Act (Water Code Sections 8400-8015).
- Public Law 566 Projects. This refers to projects undertaken pursuant to the Watershed Protection and Flood Prevention Act (Public Law 566, Chapter 656, Eighty-third Congress, Second session; 68 Stat. 666; 16 U.S.C.A., See. 1001, et seq.

APPENDIX B SAMPLE FORMS

The purpose of this appendix is to present samples of the various forms and certifications to be used for filing claims. The samples presented are:

Sample No. 1 - Claim Affidavit

Sample No. 2 - Claim Detail Sheet - Rights-of-Why

Sample No. 3 - Claim Detail Sheet - General Project Costs

Sample No. 11 - Resolution of Assurance to State

Sample No. 5 - Resolution Designating Person to File Claims

Sample No. 6 - Contract for Hiring Fee Real Estate Appraisers

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I, M. A. Gawn , Chief Engineer Santa
Margo F.C.D. , hereby certify, under penalty of perjury:

THAT claim of Santa Margo F.C.D.
Local Agency

rendered to Department of Water Resources, dated April 1, 1961,
in the amount of \$27,617 , for reimbursement
(Reimbursement or Advance)

of eligible costs associated with Swan River
Project, from Pacific Ocean to Water Street was
prepared under my direction;

THAT costs as represented herein are in accordance with
original records of costs for said project on file in said agency's
office; and

(a)* THAT all lands and interests in lands acquired, for
which reimbursement or advance of funds are requested herein,
fall within the requirements of the federal agency for said
project and represent the minimum needs therefor;

(b)* THAT all items of costs for the relocation, recon-
struction or replacement of affected works are for project
purposes as required by the federal agency and provide the most
economical facilities of equivalent capacity.

* Use applicable Section (a) or (b)
depending on claim.

THAT Sections 1090 TO 1096, inclusive, of the Government Code and other applicable provisions of law have been complied with:

THAT amount claimed does not include administrative overhead or estimated salvage value of improvements; and

THAT I am the person authorized by the local agency to file claims for reallocation of flood control. funds with the State of California.

(Signature) M. A. Gawn

Date July 21, 1961

Sample No. 3 - CLAIM DETAIL SHEET - GENERAL PROJECT COSTS

Project Title Swan River Project. Local Agency Santa Margo Co. FCD

Claim No. 1 Date April 1, 1961

GENERAL PROJECT COSTS

Payee	Amount	Purpose	Warrant*	
			No.	Date

Flood Control Rights-of-Way

J. R. Dolan	\$1,200.00	Appraisal on S. M. Smith	10150	8-10-60
Margo Title Co	<u>2.50</u>	Drawing Deed, S. M. Smith	10201	2-25-61
Total Cost-FC R/W	\$1,202-50			

Amount Claimed: State R/W percentage x FC R/W Costs = \$ _____

Flood Control Relocations

Margo Fence Co.	\$650.00	Fence,-S. M. Smith property	10140	7-25-60
Western Sanitary Dist.	300-00	Install manhole, 10th St.	10189	
	12-23-60			
Cement Pipe Co.	<u>2,100.00</u>	Install sewerline, 10th St.	10199	12-27-60
Total Cost-F/C Rol.	\$3,050-00			

Amount Claimed: State Reloc. percentage x FC Reloc. Costs = \$ _____

Recreation and Fish and Wildlife Enhancement Relocations

Pacific Union	\$1,500.00	Trunkline, Swan River	10188	9-13-60
Telegraph				
Total Cost-R&F&WE Rel	\$1,500.00			
	Amount Claimed:	0.50 x R&F&WE Costs = \$		

_____/s/ M. A. Gawn, Chief Engineer

Certified by Authorized Representative of LOCAL AGENCY

I, _____ (Name) _____ (Title)

certify, under penalty of perjury, that I am responsible for the settlement of accounts and that the amounts claimed have been paid.

Signed: _____

* Shown if claim for reimbursement.

Note: Claims for reimbursement for payment of progress estimate should, in addition to this tabulation, be accompanied by copies of standard form of agency for such contract payments.

Sample No. 4 - RESOLUTION OF ASSURANCE TO STATE

WHEREAS, under Public Law _____ the (federal agency) intends to construct a flood control project at _____; and

WHEREAS, under (The State water Resources Law of 1945) (The California Watershed Protection and Flood Prevention law) the State of California intends to pay a portion of the costs of lands, easements, and rights-of-way necessary for said, project;

NOW THEREFORE BE IT RESOLVED, that the (local organization) hereby gives assurances to the State of California that it will operate and maintain said project after completion, in such manner as will accomplish the purposes for which the project was authorized and constructed and as may be required by the (Secretary of the Army) (Secretary of Agriculture) and the Department of Water Resources; that it will hold and save the State of California free from damages or claims due to the construction, installation, or operation of the project; that it will give all assurances required by federal law as to said project; and that it will guarantee public access to project land and water areas when the State participates in the costs of recreation and fish and wildlife enhancement features.

Sample No. 5 RESOLUTION DESIGNATING PERSON TO FILE CLAIMS

WHEREAS, under Public law _____the (federal agency) intends to construct a flood control project at _____
_____ ; and

WHEREAS, under (The State Water Resources Law of 1945) (The California Watershed Protection and Flood Prevention Law) the State of California intends to pay a portion of the costs of lands, easements, and rights-of-way necessary for said project; and

WHEREAS, the (local organization) has given all assurances required by federal or state law;

NOW THEREFORE BE IT RESOLVED, that the (local organization) hereby appoints _____to file claims with the State of California for reimbursement of expenditures made by the (local organization) for lands, easements, and rights-of-way necessary for said project.

PROJECT IDENTIFICATION

CONTRACTOR ☐
AGENCY ☐
WATER RESOURCES ☐

Sample No. 6

CONTRACT FOR HIRING
FEE REAL ESTATE APPRAISERS

THIS AGREEMENT, made and, entered into this. day of 19, by
and

between the Agency, acting through its
Title of officer acting for Agency

hereinafter called the Agency, and
hereinafter called the Contractor.

WITNESSETH: That the parties do hereby agree as follows:

1. The Contractor, for and in consideration of the covenants, conditions, agreements, and stipulations of the Agency herein after expressed, does hereby agree to furnish the Agency appraisal report incopies covering that certain real property described as follows:

(sample)

2. The completed report shall be delivered to

.....
.....
on or beforeThe date of delivery of the report may not be extended without written authorization
ofand will not be extended beyond the termination date of this contract.

3. The Contractor is to be paid the sum of &for the completed report, which sum includes the cost of all expenses of any kind or nature incurred by the Contractor hereunder. Contractor shall cease work upon Agency's request, whereupon payment shall be made, prorated on the basis of work completed

4. If requested by the Agency, Contractor shall appear in Court as an expert witness in any condemnation case involving the above-described property, and shall perform work incidental thereto. Contractor shall cease work upon Agency's request, \$.....per diem for any day that Contractor is called upon for pre-trial conference with the Agency's attorneys, for appearances in Court as an expert witness, or for additional services not within the scope of the original report.

5. In no event shall the term of this contract extend beyond
The provisions on the reverse side hereof constitute a part of this agreement.

IN WITNESS WHEREOF, This agreement has been executed, in quadruplicate, by and on behalf of the parties hereto, the day and year first above written.

Contractor... ..
(If other than an individual, state whether a corporation, partnership, etc.)

. By.....
Name of Agency

By

Title

Title

Address

6. The Contractor shall prepare his appraisal report in conformity with the Appraisal Specifications listed below, unless otherwise provided herein or directed in writing by the Agency. Contractor's report shall be complete upon submission and Contractor agrees to correct any omissions or error on his part at no extra cost to the Agency. Neither acceptance of the report, nor its retention by the Agency shall be deemed to waive any obligations of the Contractor hereunder.

7. Contractor agrees to indemnify and save harmless the Agency, its officers, agents and employees from any and all claims and losses accruing or resulting to Contractor in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.

8. This agreement is not assignable by Contractor either in whole or in part.

9. Time is of the essence of each and all the provisions of this agreement. The Agency may terminate this agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided.

10. It is mutually understood and agreed that no alterations or variations of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto, shall be binding on any of the parties hereto.

11. It is mutually understood and agreed that the appraisal report and all portions, thereof is confidential and is prepared for use by the Agency's attorneys in connection with any condemnation action or actions involving the property subject of the appraisal report.

12. The Contractor agrees that his report, its contents and conclusions are for confidential information of the Agency and its authorized representatives and that he will not disclose his data, reasoning, or conclusions in whole or in part to any person whatsoever other than as provided herein.

13. The Contractor warrants that he has no interest, present or contemplated, in the property or properties affected by this contract.

APPRAISAL SPECIFICATIONS

All reports must contain the following:

1. Title page (sufficient data to identify project).
2. Letter of transmittal (brief summary of important conclusions: market value, date of valuation, etc.).
3. Table of contents.
4. Photographs, plat, legal description of property, and name of owner.
5. Map showing all sales in relation to subject property.
6. Analysis of area surrounding subject property.
7. Analysis of the site including all standard items such as zoning, taxes, utilities, topographic features, etc.
8. Highest and best use (if controversial, discuss fully).
9. Description of improvements.
10. Discussion of sales, comparing them directly to subject.
11. The three approaches to market value (if any of the three approaches are inapplicable, explain why).
12. Discussion of severance damage (or lack of it) where a partial take is involved.
13. Effect of title exceptions on market value.
14. Correlation and final estimate of market value (summarize the reasons supporting conclusions),

15. Estimated value of salvage or excess lands after taking.